

The Assault on Freedom of Choice in Health Care

**A round-up
of just some
of the terror
tactic raids
upon health
care
businesses
across
America and
Australia.**

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PUBLIC UNREST AT TERROR TACTICS

(Editor's Note: On 13th January this year, the Life Extension Foundation coordinated a phone campaign to protest the terror tactics employed by the US Food and Drug Administration (FDA) with their continuing raids on natural health care businesses and clinics.

Thousands of Americans phoned members of a published list of seven FDA directors and commissioners to voice their concerns. The Life Extension Foundation claim that "The FDA's purpose is not just to destroy the businesses and lives of their targets, but also to spread fear throughout the land, so that others who may be tempted to rebel against the agency will remain meek and submissive."

For those still not convinced that this sort of thing happens in a western democracy, consider "The FDA Raid Report" as published in Townsend Letter For Doctors. For any further details, don't ring us, contact: Saul Kent, President, Life Extension Foundation, 1534 Polk St, Hollywood, FL 33020, USA. Ph: 1 800 333 2553, Fax (305) 929 0507.)

The FDA Raid Report

Raid: Burzynski Research Clinic — 7 July 1985

Address: 1200 Richmond Avenue, #260, Houston TX 77082

Phone: (713) 597 0111 — Dean Mouscher

Reason: Interstate shipping of antineoplastins (cancer therapy). NCI, Aetna Insurance and others pressured FDA into raiding the Burzynski Clinic.

Outcome: FDA seized 200,000 medical and research documents, forcing Burzynski to pay to make copies. No charges were filed.

Raid: The Life Extension Foundation — 26 February 1987

Address: PO Box 229120, Hollywood FL 33022

Phone: 1 800 333 2553 — John Hammell, Political Office

Reason: FDA alleged LEF was selling "unapproved drugs" (vitamins in US) and life extension drugs from overseas companies.

Outcome: FDA seized US\$500,000 worth of vitamins, computers, files, newsletters and personal belongings, ripped phones out of walls, and terrorised employees. The Foundation's leaders, Saul Kent and William Faloon, were indicted on 28 criminal counts with a maximum prison time of 84 years, in November 1991. Case is still pending.

Raid: Pets Smell-Free, Inc. — Summer 1988

Address: 350 W. 300 South, Salt Lake City UT 84101

Phone: (801) 322 1221; email Magnum@UTW.com (Mark Geiger)

Reason: Product designed to prevent pets from giving off foul odours (also sold for fishtanks). FDA called it an "unsafe, unapproved drug".

Outcome: Seized entire inventory and business records. PSF won in court several times, but in July 1994 the FDA won on appeal. FDA wants PSF to sign consent decree, but they have refused.

Raid: Traco Labs, Inc. — November 1988

Address: 205 S. Main Street, Seymour IL 61875

Phone: (217) 687 2800 — Sid Tracy, President

Reason: FDA claimed that black currant oil was an "unsafe food additive".

Outcome: FDA seized two drums of black currant oil as well as a large quantity of the capsulised product. On 28 January 1993, the US Court of Appeals ruled against the FDA. The judge said that the FDA's definition of "food additive" is too broad—that even water added to food would be considered a food additive.

Raid: Solid Gold Pet Foods — September 1989
 Address: 1483 N. Cuyamaca, El Cajon CA 92020
 Phone: (619) 465 9507 — Sissy Harrington McGill, owner
 Reason: FDA had been harassing McGill over labels on her holistic pet food products. In March 1990, an FDA agent seized products from her store without a search warrant and shut down her store. On 23 July 1990, after being indicted, she chose a jury trial. Upon appearing for her trial, she was clapped into leg irons, put into a maximum security federal prison for 179 days and fined US\$10,000. While incarcerated, she suffered a near-fatal stroke.
 Outcome: McGill sued the Department of Justice and won a victory on 20 February 1992. She expects to file a US\$25,000,000 lawsuit against the FDA.

Raid: Highland Labs — Autumn 1990
 Address: Box 199, Mt. Angel OR 97362
 Phone: 1 800 547 0273 — Candy Scott
 Reason: FDA claimed that product literature (with false claims) was being shipped with products to customers. FDA said these made CoQ10 and GeOxy132 "unapproved drugs".
 Outcome: After spending US\$250,000 in legal fees, defendant was forced to plead guilty to selling "unapproved new drugs". Six months' house arrest; US\$5,000 fine.

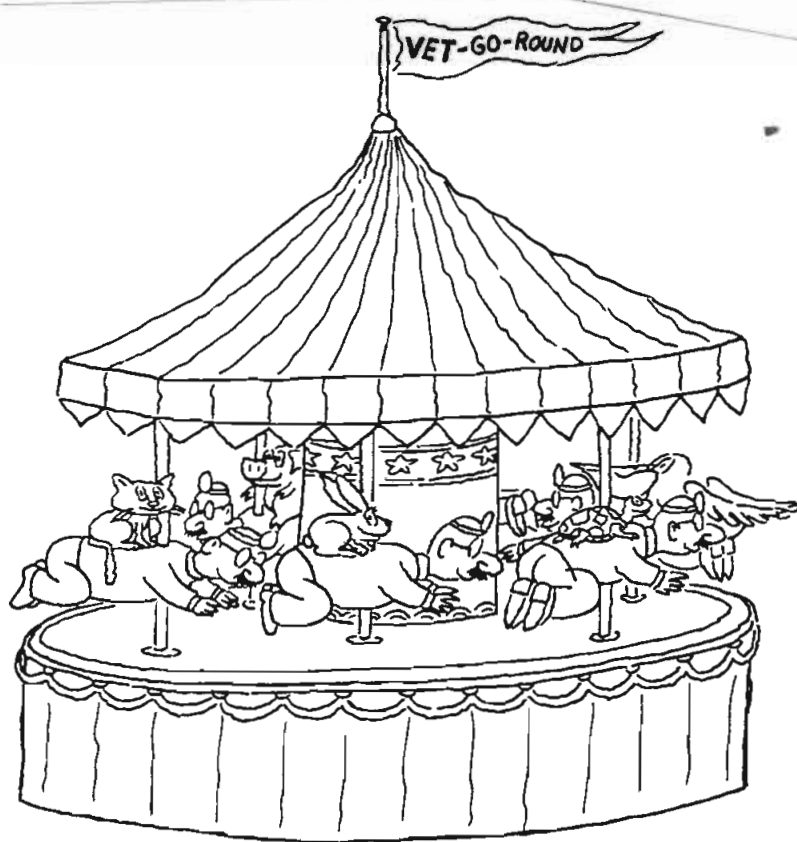
Raid: H. A. Lyons Mailing Service — 16 October 1990
 Address: Driven out of business; formerly in Phoenix, AZ
 Reason: Mailing literature on behalf of vitamin companies. With no advance warning, five armed agents, backed by an armed policeman, raided this home-based business run by a young woman.
 Outcome: The owner convinced the agents not to seize her cheque book and cash. They did seize all her business records and literature. No charges were filed.

Raid: Nutricology, Inc. — 9 May 1991
 Address: 400 Preda Avenue, San Leandro CA 94577
 Phone: 1 800 545 9960 — Stephen A. Levine, Ph.D., owner
 Reason: The FDA raided Nutricology, seized their bank accounts and shut them down for two days, charging them with wire fraud, mail fraud, and selling unapproved drugs, unsafe food additives and misbranded drugs. Twelve armed agents conducted an exhaustive search of the company's offices and warehouse.
 Outcome: On 23 May 1991, Federal Judge D. Lowell Jensen denied the FDA's request for a preliminary injunction. On 10 September 1991, the FDA appealed to the 9th Circuit Court of Appeals, but was again denied. On 23 September 1993, Judge Jensen denied the FDA's motion for summary judgement and granted Nutricology's motion to eliminate the wire and mail fraud charges.

Raid: Scientific Botanicals — Autumn 1991
 Address: 8003 Roosevelt Avenue NE, Seattle WA 98115
 Phone: (206) 527 5521
 Reason: Alleged labelling violations. FDA seized herbal extract products and literature sent to physicians. FDA forced the company to stop using its patented trade names lest they "mislead the consumer".
 Outcome: FDA slowly released all seized products, forcing the company to comply with all demands under threat of being shut down. Company refuses to talk about their case for fear of reprisal.

Raid: Thorne Research — 12 December 1991
 Address: 901 Triangle Drive, Sand Point, ID 83864
 Phone: (208) 263 1337 — Al Czap, owner
 Reason: FDA claimed that vitamin products sold by company were "unapproved drugs". FDA agent and three US marshals seized the company's entire stock of US\$20,000 worth of products and 11,000 pieces of literature intended for physicians.
 Outcome: Thorne initially notified District Court that it would fight, but gave up as the expiration date on the seized products was approaching and it became too expensive to continue. The company no longer publishes any literature.

Raid: Tahoma Clinic, Dr Jonathan Wright — 6 May 1992
 Address: 24030 132nd Avenue SE, Kent WA 98042
 Phone: (206) 631 9681 — Harry Mills, public relations
 Reason: After L-tryptophan was banned, Dr Jonathan Wright continued to prescribe it. The FDA raided him and seized his supply of tryptophan. Dr Wright filed suit. The FDA retaliated by storming into Wright's clinic with armed sheriffs who terrorised employees and seized vitamins and other natural therapies, allergy screening equipment, computers, bank records, his mailing list and medical records.
 Outcome: In October 1992, Wright filed suit in District Court, charging unlawful search and seizure, and demanding his property back. In response, the FDA convened a federal grand jury and subpoenaed Wright's clinic records. No charges have yet been filed.



Somerville

Raid: Ye Seekers — June 1992

Address: 1221 Blalock, Houston TX 77055

Phone: (713) 461 0857 — Matt Malick, Vitamin Supervisor

Reason: In February 1992, Texas health authorities, acting under the direction of the FDA, seized 50 products from several health food stores in Texas including Ye Seekers. Then, in June, they seized more than 250 products including aloe vera, zinc, flax seed oil, herb teas, vitamin C and coenzyme Q-10.

Outcome: Although more than 410 products were seized, the stores haven't filed suit for fear of reprisals. Ye Seekers noted that Ginsana was seized from them at the same time it was being advertised on the Larry King TV show.

Raid: Mihai Popescu — 2 June 1992

Address: Out of business. Owner in Metro Detention Center in Los Angeles

Phone: (213) 933 6825 — Popescu's wife; leave message

Reason: The FDA claims that Gerovital (GH-3), which Popescu was selling, is an "unapproved drug". Eight FDA and Customs agents raided Popescu's house with guns drawn, holding his eight-months-pregnant wife and 83-year-old grandfather at gunpoint for 10 hours.

Outcome: They seized his computer and business records and US\$5,000 worth of GH-3. Popescu has been in prison for eight months and expects to be released in three months.

Raid: Nature's Way — 30 June 1992

Address: 1375 N. Mountain Springs Pkwy, Springville UT 84663

Phone: 1 800 962 8873

Reason: The FDA seized a quantity of evening primrose oil, both encapsulated and in bulk, from this large manufacturer during a routine inspection. They also seized a truckload of primrose oil on the road. The FDA claimed it was an "unapproved food additive".

Outcome: Nature's Way filed a lawsuit to get their product back, but was forced to remove the vitamin E from it because the FDA said that "vitamin E has not been approved as a food additive for evening primrose oil".

Raid: Family Acupuncture Clinic — 14 August 1992

Address: 117 Granada, San Clemente CA 92672

Phone: (714) 361 3976 — Richard Lee, Ph.D., Director

Reason: FDA seized US\$15,000 worth of Hsaio Yao Tea Pills in an attempt to strike back at acupuncturists who are taking a lot of business away from conventional doctors. The FDA ignored Californian law, under which acupuncturists are licensed to practise medicine. FDA also ignored the fact that many insurance companies honour claims for acupuncture, including Aetna, Prudential and Blue Cross.

Outcome: The seized herbs were shipped back to China by the FDA after they'd rotted. Dr Lee is still in business.

Raid: Natural Vision International (NVI)

Address: Driven out of business; formerly in Manitowoc, WI

Phone: Talked to an administrator at Holiday House at (414) 682 4663

Reason: Opticians and ophthalmologists pressured FDA into an armed raid of NVI with two federal marshals to seize 17,000 pairs of pinhole glasses which exercise and strengthen the eyes. The charge was that NVI had failed to file a pre-market application with FDA. NVI notes that a pinhole is not a lens.

Outcome: Despite the fact that NVI submitted hundreds of testimonials from satisfied customers, the FDA drove them out of business by not returning their stock of over US\$200,000 worth of pinhole glasses.

Raid: Tierra Marketing — 8 April 1993

Address: 8200 Montgomery NE #235, Albuquerque, NM 87109

Phone: (404) 524 2233 — Rodger Sless

Reason: Sless was raided at gunpoint, and had US\$20,000 worth of Gerovital-H3 (GH-3) seized along with business records and computer. Employees suffered from post-traumatic stress syndrome after having guns pointed at them. The FDA considers GH-3 an "unapproved drug".

Outcome: On 17 June 1994 a New Mexico jury acquitted Sless. The FDA could produce no documents indicating they had followed legal administrative procedures to enable them to seize GH-3. The Fully Informed Jury Association (FIJA) handed out leaflets to everyone entering the courthouse (including jurors) to inform them that they could vote their consciences about whether or not Sless was guilty.

Raid: Kirwin Whitnah — 12 May 1993

Address: Driven out of business. Formerly in Middletown, CA

Phone: (707) 928 1915

Reason: Whitnah was promoting the sale of deprenyl. The FDA considered this "selling an unapproved drug". His house was raided at gunpoint when he wasn't home, terrorising a woman staying at the house. They found no deprenyl. They seized his computer, business records, mailing list, literature and US\$4,500 in money orders.

Outcome: No charges were filed, but Whitnah was driven out of business.

Raid: Waco Natural Foods — 14 May 1993

Address: 1424 Lake Air Drive, Waco TX 76710

Phone: (817) 772 5743 — Tom Wiggins

Reason: The FDA was looking for deprenyl citrate, a non-toxic supplement. They entered the store with a search warrant wearing plain clothes. They searched for four hours and

seemed most interested in possible links to business in the Seattle area.

Outcome: As soon as Mr Wiggins, the owner, told the FDA his attorney was a well-known defender and prior district attorney in the Waco area, they apologised for the raid and left with some documents. No charges were filed and the store hasn't been raided since.

Raid: International Nutrition Inc. — 24 June 1993 and 3 August 1993

Address: PO Box 1644, Santa Theresa NM 88008

Phone: 1 800 535 6442 — G. S. Odin

Reason: Alleged "misbranding" of "illegal drugs" led five FDA agents, a federal marshal and a PR specialist to enter with video cameras (instead of guns) in an effort to prevent a public backlash. FDA seized US\$1,000,000 worth of vitamin raw materials and products formulated by Dr Hans Nieper of Germany. Also seized were computers and business records.

Outcome: INI has lost 80 per cent of its business since the raid and had to lay off 80 per cent of its workforce. No court date has been set.

Raid: Hospital Santa Monica — 12 May 1993

Address: 738 Design Ct, Chula Vista CA 91909

Phone: (619) 662 3010 — Kurt Donsbach

Reason: Hospital Santa Monica is an alternative cancer hospital in Mexico that competes with mainstream hospitals in the US.

The FDA seized US\$15,000 worth of Hsaio Yao Tea Pills in an attempt to strike back at acupuncturists who are taking a lot of business away from conventional doctors.

They were accused of distributing "unapproved drugs". More than 50 federal agents with guns drawn raided the hospital office in San Diego, seizing a tractor trailer of business records, patient charts and computers. They also searched employees' homes and seized US\$80,000 found in the owner's safe. Over US\$300,000 was taken from the bank accounts of the hospital and two vitamin companies.

Outcome: Friends kept the hospital afloat with cash gifts. The two vitamin companies were sold at a loss. Donsbach was forced into bankruptcy. No charges have been filed.

Raid: Zerbo's Health Food Store — May 1993

Address: 34164 Plymouth Road, Livonia MI 48150

Reason: The alleged distribution by 78-year-old Mr Zerbo of GH-3 to special customers. Armed US marshals and FDA agents cleaned off shelves of coenzyme Q-10, selenium, carnitine and GH-3. Mr Zerbo and his daughter Claire, who manages the store, were indicted on charges of "illegal drug trafficking".

Outcome: Claire Zerbo wanted to fight her indictment, but chose not to do so because the FDA threatened her ageing, 78-year-old father who has Parkinson's disease, with seven years in prison. Because of her fear that her father would die in prison, they both pleaded guilty. Claire will likely receive three months' probation. Her father is unlikely to go to prison for more than four months.

Raid: Life Extension Services — 27 July 1994

Address: 7982 Honeygo Boulevard, #46, Baltimore MD 21236

Phone: (410) 931 2044 — James Ryley

Reason: College student James Ryley was helping Americans obtain unapproved drugs from overseas companies according to the FDA's Mail Importation Policy. At the time of the raid, he had fulfilled three orders. Armed FDA agents, Customs agents and state police swarmed into his apartment with guns drawn at 9 am. They threw Ryley's roommate to the floor, kicked in the bathroom door, made his girlfriend lie on the floor, and made Ryley get out of bed naked. They handcuffed them, refused to let Ryley put on his clothes, and seized all the drugs in the apartment, two computers, a fax machine and Ryley's two cars. Later, Ryley's girlfriend was allowed to go to work, but he and his roommate were taken to a US Customs office where they were booked, fingerprinted and released hours later.

Outcome: Neither Ryley nor his roommate (who had nothing to do with the 'business') have yet been indicted, but expect to be shortly.

— An Australian Raid Report —

Raid: Manning Pharmacy — 9 November 1993

Address: 69 Manning Road, Manning, Perth, WA 6152

Phone: (09) 450 4180, fax: (09) 349 0596 — Maurice Czarniak

Reason: Pharmacy proprietor Maurice Czarniak was making and selling externally applied creams for arthritis, baldness, cellulite, nappy rash, acne, etc. The creams were so successful that they attracted very favourable TV coverage on TVW Channel 7's *Real Life*—a high-rating, prime-time current affairs show. All the cream products are based on chicken eggs as the active ingredient. Czarniak had been in constant written and oral dialogue with the Australian Therapeutics Goods Administration (TGA) for over two years. The TGA constantly advised that products did not fit in with TGA definitions of drug or therapeutic good, but were in fact foods. There is no legal definition of food in Australian law.

Shortly after the TV programs, the Australian Federal Police (AFP) conducted a raid on Maurice's home in Yokine, his parents' home at Nollamara, and the pharmacy in Manning. All goods, finished products, experimental products, starting materials, records, computer discs, answering machines and tapes, postal orders, hundreds of letters from the public, cheques and cash were confiscated. The raid comprised 16 AFP agents plus TGA and state health officials. During the raid, their little son of 15 months was knocked over and, according to Maurice, "we were literally treated like criminals for putting an egg into a cream". He was taken to AFP headquarters for a recorded interview, placed in lock-up for three hours, released on bail—condition of bail was not to produce therapeutic goods.

A private investigator on the case found that the telephone at the pharmacy was bugged, and had been for several weeks.

His lawyers were allegedly advised by Dept of Public Prosecutions (DPP) that if he did not plead guilty in court, they would charge his wife with some other offences. Maurice refused, and wife Petra was charged with offences carrying maximum possible fines of AUD\$1.4 million.

Outcome: Matter went to trial on 12 December 1993. They were fined AUD\$96,000 for putting egg into creams, and told that these were serious offences. Appeal proceedings have commenced, and results should be seen April 1995.